

NEW MOVE BY STATE

Prisoners Will Be Rearrested on Release.

(From Saturday's daily.)

Difficult in preventing the jail delivery by writs of habeas corpus, a new method will be tried by the authorities to check this defeating of justice.

Recognizing the authority of Judge Gear to release upon writ of habeas corpus the prisoners convicted during the "transition" period, High Sheriff Brown will rearrest the prisoners as fast as they leave the court. In fact, a warrant was issued yesterday noon for the arrest of Goto, the Japanese murderer released by Judge Gear Wednesday. He probably will be arrested some time today.

Though not definitely arranged as to the mode of procedure, warrants will be issued this morning for the three murderers to be released by Judge Gear upon writ of habeas corpus, and they will be rearrested immediately.

Hamilton and Ah O, also probably will be included in this general arrest and all will be taken before the District Court for commitment in regular form.

ASKS SPECIAL SESSION OF SUPREME COURT.

In the meantime Attorney General Dole has not been idle, and yesterday afternoon he filed the following petition with the clerk of the Supreme Court:

Territory of Hawaii, Office of the Attorney General, Honolulu, H. I., July 26, 1901.

To the Honorable Justices of the Supreme Court, Territory of Hawaii: Sirs—The following persons were convicted of infamous crimes between the 12th day of August, 1898, and the 11th day of June, 1900, and are under sentence as hereinafter stated:

(Here follows the list published yesterday.)

I think it is my plain duty to do all I lawfully can to prevent these criminals and there are two or three cases of outrage far worse than ordinary murders in the first degree from being turned loose on the community.

As I understand the recent decisions of the Supreme Court of the United States, the questions raised and passed upon by the second judge of the First Circuit Court were not directly adjudicated by the Supreme Court of the United States. It seems to me that it is still an open question whether the first ten amendments to the Constitution of the United States were extended to these Islands by the Newlands Resolution or by the Organic Act. I am not aware that any phase of this question has been passed upon by the Supreme Court of the United States.

If they were extended by the Newlands Resolution, these men were convicted illegally, and are liable to be prosecuted as if no proceedings had been had. But if this is done they will, of course, plead former conviction and a discharge on habeas corpus, if they succeed in getting it; and the same question of the Constitution and flag will have to be met.

On the other hand, if the fifth and sixth amendments to the Constitution of the United States were extended to these Islands by the Organic Act, and not by the Newlands Resolution, the conviction of these men was legal, and they cannot lawfully be convicted again, and are not entitled to discharge on habeas corpus.

These questions, concerning which there is a wide and honest difference of opinion among able lawyers, cannot be avoided; and it seems to me essential for the protection of this community, and also a constitutional right which these convicted men have, that the law of the matter—arising as it is within the power of the Supreme Court of this Territory to settle, should be settled as soon as possible. Such adjudication is equally necessary whether the fifth and sixth amendments were extended by the Newlands Resolution or by the Organic Act. If the Attorney General's department, if it acts on the theory that former convictions were void and arrests men discharged on habeas corpus, cannot hold them for a long and indefinite period of time.

In view of existing conditions, and of appeals from the second judge of the First Circuit Court, which have been and will be filed in these matters, I respectfully suggest the question whether there is not a public exigency requiring a special session of the Supreme Court of this Territory at an early date.

I have the honor to be, sir, with great respect,

E. P. DOLE,

Attorney General.

The Supreme Court has taken no action concerning this matter as yet. In regard to the application for a writ of mandamus, Chief Justice Frear informed Attorney General Dole that he was entitled to bring his appeal before the Supreme Court without the permission of Judge Gear, and the Attorney General will withdraw his application.

REARRESTING PRISONERS.

The report that Sheriff Brown intends to rearrest those released as fast as they were turned loose, gained currency about the courts yesterday afternoon, and created considerable talk. The high sheriff, it seems, had consulted an attorney as to his right to do this, and the reply was evidently favorable, for a warrant was immediately issued for the arrest of Goto, the Jap first released by Judge Gear.

He said that he had been served with notice to produce three prisoners, named yesterday, in court this morning. These men, Thara Ichiguro, Onuki Makiishi and Chida Maroboro, undoubtedly will be released on habeas corpus by Judge Gear.

According to an attorney who made an investigation of the matter yesterday, the proper procedure would be the arrest of the three men, as soon as they left the court. This could be done upon the old charges of murder and non-resistance, and they would be taken before the District Court and committed to jail upon the presentation of sufficient evidence. The Grand Jury, which meets next month, would then consider their cases, and the authorities proceed as in an original case. The only question that could be

raised," said this attorney, who was at one time Circuit Judge, "would be whether or not the liberty of the press after had already been placed in jeopardy. This I do not think has been done; for none of these men have been legally convicted. They were not taken before a grand jury, and the whole proceeding is null and void. Consequently, it could not be said that their rights had been jeopardized, for at no time were they rightfully imprisoned. This is the only remedy the Attorney General has, in my opinion."

The same attorney found several decisions in the United States courts to bear out his contention, and in his mind there could be no question of the legality of this method of securing the ends of justice.

The only difficulty in the way of this proceeding will be the task of securing testimony, as the witnesses in many of the cases are scattered to the four corners of the earth. Sheriff Brown hopes, however, to secure sufficient evidence for conviction.

There is every indication that this plan will be followed in order to return to prison the desperate men who will be turned loose.

THE EX-QUEEN BRINGS SUIT.
Ex-Queen Liliuokalani has brought suit against Emma M. Nakima and Moses K. Nakima to recover the sum of \$500 for damages resulting to her for injury done by the defendants to her and alleged as follows:

That on December 14, 1897, Liliuokalani and her husband, John Owen Dominis, leased in writing to defendant all that certain piece of land called the Ahupuaa of Poolelu situated between Makala and Ponihoia on the island of Molokai for a term of fifteen years from January 2, 1898. That defendants agreed under said lease to pay plaintiff and her husband an annual rental of \$100 for the land from January 2, 1898. The Queen alleges that since January 2, 1898, the defendants have been and are in possession of the land under the lease. That plaintiff's husband, John Owen Dominis, died on August 27, 1891, and that all his property was devised to plaintiff by will duly probated in the Circuit Court of the First Circuit on September 30, 1891. That defendants have failed and refused to pay plaintiff the rent for said land for the years 1896, 1897, 1898, 1899 and 1900, amounting to \$500, although the Queen alleges that demand has been made, which the plaintiff alleges was done in contravention of her rights under the laws.

J. O. Carter is attorney for the Queen.

Charles B. Wilson has served notice on the Ex-Queen, Liliuokalani Dominis, that July 26th he will present a motion in Circuit Court asking leave to file an amendment bill of complaint, in the case of Wilson vs. Liliuokalani. The motion is based upon the recent decision of the Supreme Court in a similar case.

The defendants have notified plaintiff that they will ask an order, based upon the same decision, and a dissolution of the injunction issued against the defendant.

REVOLVER THAT ENDED HER LIFE

With the crack of a 38-calibre Smith & Wesson revolver went out the life of 15-year-old Effie Gertrude Givens on Saturday afternoon.

The dead girl lived with her father, J. W. Givens, on Anapuna street, at Makiki. Until quite recently Mr. Givens had resided in Hilo.

The girl was alone in the house on Saturday afternoon. About 4 p. m. a friend of hers named Miss Polker, who was at the time in a cottage at the rear of the Givens' house, was started to hear a revolver shot. Thinking that something might be wrong she went over to the house and found the deceased in one of the rooms lying on her back with a bullet hole in her right temple, apparently dead.

The police were immediately notified and in answer to a summons Dr. Burgess hastened to the scene of the tragedy. He found that life was extinct.

Deputy Sheriff Chillingworth was quickly at the house and came to the conclusion that the fatal bullet had been sped by the girl's own hand. He then summoned a coroner's jury, which inspected the body and its surroundings.

The body was found in front of a looking-glass in the bedroom of her father. The girl's left hand was much powder burned and the supposition is that the deceased stood in front of the looking-glass, held the barrel of the revolver to her temple with her left hand and pulled the trigger with her right. The bullet entered the temple and lodged in the skull, from whence it was afterwards extracted.

The only other occupant of the house besides the girl's father is Miss Givens' stepmother.

No cause can be assigned for the rash act, but the dead girl is known to have suffered acutely of late from some head trouble.

The revolver with which the dead was committed was found by Mr. Givens at Oiaa on July 3d. He purchased a box of cartridges and left them in his residence at Makiki. Only the exploded shell was found in the chamber of the revolver.

An inquest will be held this afternoon. The jury consists of Thomas Krouse, A. B. Springour, E. Mossman, G. A. Bowers, George Andrews and I. Livingston.

The Bank of Maui.

The following is a list of the subscribers to the Bank of Maui to date: H. P. Baldwin, George Hons, L. M. Baldwin, W. A. McKay, W. T. Robinson, John Weddick, R. A. Wadsworth, L. Harchhausen, Goo Lip, G. G. Seong, George H. Dunn, E. Kohler, W. H. Hinton, Arthur Waul, A. J. Rodriguez, F. J. Wheeler, Leslie Scott, H. Stranbeck, Ceazaro Rodriguez, William A. Sparks, T. B. Lyons, John Ferreira, A. Ross, Charles Lennex, W. J. Lowry, H. H. Bailey, C. H. Jennings, G. L. Keeney, P. F. Baldwin, W. E. Beckwith, F. G. Jones, V. C. O. Allen, A. Fernand, J. W. E. McCoukey, F. W. Hardy, James Anderson, E. E. Kaima, T. Awana, Tam Yau Company, H. H. Wilbur, C. E. Haynes, E. Hocking, A. H. Molau, N. Black. About \$10,000 has been authorized, leaving about \$10,000 yet to be subscribed. There is no doubt but that this will be subscribed, as there are a number of prominent men whom Mr. Luffin has not been able to meet. All those desiring stock should communicate by mail with Mr. Luffin at the Maui Hotel, Waikuku, Maui News.

Malvina and Mrs. Luffin of Honolulu, who are to be in Honolulu in the near future, are to be in Honolulu in the near future.

INDIGNANT JAPANESE

Say Okabe and His Wife Were Insulted.

(From Saturday's daily.)

As an outcome of the medical examination of the persons of Mr. and Mrs. Okabe, first-class passengers aboard the steamer America Maru, which arrived at this port on Thursday from the Orient, the Japanese Legation at Washington may be called upon to ask for an official investigation. Mr. Okabe is the new Vice Consul for Japan in the Hawaiian Islands, relieving Mr. Tanaka, who has been assigned to a similar position in New York city. The manner in which Mr. and Mrs. Okabe were subjected to an examination of their persons on account of the discovery of a suspicious case of plague aboard the America Maru has been the cause of several meetings of the influential Japanese of this city, and may lead to unpleasant results.

When the America Maru came into the harbor the yellow flag was at her masthead. Dr. Cofer, Federal quarantine officer, had discovered a Chinese on board who was a suspicious case, and the vessel was placed in quarantine pending the results of a microscopic test. While the steamship lay at anchor in the harbor the steerage passengers were examined critically and passed. The cabin passengers, among whom were a number of high-class Japanese men and women, were called to the saloon, where the names of the passengers were read aloud and checked off by the surgeons. No physical examination was made of the white passengers.

Mr. Okabe, his wife, Mr. Imai, Miss Nobichi and Mr. K. Kamahara, the latter three of whom have proceeded to the Coast on the America Maru, leaving signed statements behind, have evidence which they claim is conclusive that the surgeons discriminated against the Japanese cabin passengers because of their being Asiatics.

At a meeting of prominent Japanese held Thursday evening the following story was given by the parties named above:

Four days prior to the arrival at Honolulu of the America Maru there was a suspicious case of plague discovered amongst the steerage passengers. It was a Chinese who came aboard at Hongkong, where the majority of the cabin passengers also embarked. There was a suspicious swelling of the glands, so the ship's surgeon said. The matter was reported to the Federal quarantine officer upon arrival here. Not waiting until the surgeons found out for a fact that the man really had the plague, Dr. Cofer proceeded to examine all the passengers. He first looked after the steerage passengers and was very strict. There were several European passengers in the steerage, whom the surgeon did not examine so carefully.

Then came the turn of the cabin passengers. They were called into the saloon, where one of the ship's officers read the names. After they were all read, Dr. Cofer called the Japanese cabin passengers to one side and began an examination of them. The men had to remove their coats while the doctors looked for swollen glands. Then came the turn of the ladies. Besides Mrs. Okabe there was Miss Imai, a society young lady, a recent graduate from school in Tokio, who is on her way to Chicago to attend a university. Miss Nobichi is en route to Monterey, where her sister resides. The evidence as given before the meeting was that there was absolutely no reason for Dr. Cofer examining the ladies. They were taken to a room and he or his representative went through the inquiry just as he had done in the steerage. He is alleged to have ordered the ladies to strip. To all of this they submitted. They first asked why he should examine them when they were cabin passengers. Dr. Cofer or his representative is said to have replied that he was very sorry to have to go to extremes just on account of one steerage passenger. They took this statement literally, thinking that all the rest of the ladies would be examined. After they were examined the ladies found that they were to be the only ones subjected to this treatment. As to the other white ladies, first-class passengers, Dr. Cofer is alleged to have passed them by.

It is on this point almost entirely that the Japanese officials here will try to make a case against the quarantine officials, and will make their report to Washington on this ground. The Japanese residents are up in arms against the one-sided treatment. They have retained counsel, and when the evidence is sifted they will decide upon what course to pursue.

Mr. Okabe is an influential Japanese at home and a prominent member of the consular corps. He has come to Hawaii not only as the Vice Consul, but also to act in a matter relating to the plantations here, and his investigations will have an important bearing upon the later situation.

DR. COFER'S STATEMENT.
Dr. Cofer, when asked regarding the statements made by Mr. Okabe and his wife, said:

"It would seem that a mistake or a misunderstanding of some sort has occurred. If a mistake was made, and no doubt there was, it was unintentional. In examining passengers who come from the Orient, we look after the steerage passengers very closely. In order to see that nothing such as plague, cholera or smallpox comes to the city from that source. The steerage passengers are divided into sections, and an officer is appointed to inspect each party. The cabin passengers are not subjected to the same sort of an examination, because it

follows very naturally that people in their social position are not so liable to disease of this character.

"On the morning the Maru arrived after one of my men had finished his round, he said to me, 'Doctor, small I examine the first-class passengers?' 'Yes,' I said, and continued with my work, for there were over four hundred people on the America Maru, waiting to be examined, and any one who has had anything to do with such labor knows very well that four hundred people are a large number to go over, and do it quickly enough to allow mails to be distributed, freight to be unloaded and the transfer of such papers as are necessary by officers on the vessel and their agents here, all on schedule time.

"Here, I think, was one place where the error might have been made. The ship's surgeon may have understood the cabin to be steerage passengers, and informed my subordinate to that effect. Understand, I say he may have, I do not say that he did. He is a gentleman in every respect, who has been most willing and obliging, and I do not wish to be understood as going out of my way to place the blame on him in order to clear myself. My assistant may have thought the first-class passengers in the doctor's cabin to be steerage passengers, although I do not think he did. Another way to account for the matter is that Mr. Okabe and his wife disregarded the instructions given to cabin passengers to keep away from the steerage passengers, while the latter are undergoing their examination, encroached upon the deck space reserved for the latter, and as a result were treated just as the others were. There is a decided tendency on the part of first-class passengers, and Chinese and Japanese especially, to run all over the ship while the vessel is lying to, subject to the orders of the quarantine squad. They seem to think that because they have first-class tickets they are at liberty to roam at their own sweet will all over the steamer from stem to stern. The quarantine officers have no little annoyance from people of this class, more than one would imagine an intelligent Chinese or Japanese would give.

"I am rather surprised that the Japanese Consul has not called upon me for an explanation, which I would willingly make, if requested to do so. I fully appreciate the position held by Mr. Okabe, and would not treat him or his wife with disrespect, intentionally.

"I knew nothing about the matter until this evening. Mr. Okabe and his wife did not make themselves known either to me or my men. Had they made any remonstrance, the matter would have been attended to at once. You must understand that there are always some who demur on being asked to undergo an examination. We listen to their reasons, and if they are worthy of consideration they are acceded to. Had Mr. Okabe informed me who he was, or what his duties here are to be, and the class of his transportation, I am sure he would have been saved all of the unpleasant experiences which he says are his."

Steamer Line to Manila.

Probably the most important recognition Manila has received up to the present time, says the Manila Times, is the establishing of a through direct line of steamers from the west coast of the United States to Manila. The new line has been inaugurated by the China Mutual Steam Navigation Co., Ltd., and will make regular direct trips from Seattle (Puget Sound) to Manila, via Japan, leaving out Honolulu, and in conjunction with the Northern Pacific Railway lines, will be prepared to contract for cargo from all points in the States for conveyance of goods to the Orient and Manila direct.

The new line will be of vast importance to Manila merchants as it will expedite wonderfully the receiving of American shipments, and avoid the tedious and expensive system of transferring cargoes at Hongkong for this port, which has caused a great loss in wear and tear and loss to the Manila merchants.

At present the new line is not expected to call at Manila on return trips, the volume of exports to the western coast of the United States not being sufficient to warrant this. It is proposed to inaugurate a semi-monthly schedule at present, and the following steamers are already announced to leave Seattle for Japan, China and Manila, on the following dates: Kintuck, July 19th; Chingwo, July 26th; Hyzer, August 10th, and Kalsow, August 24th.



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